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*Winning Your Case with
Effective Character Letters*

As criminal defense trial lawyers, when we think of winning, we usually think of the two-word verdict. In some cases, winning also means a significant reduction in the charges. A great sentence is another way to win, and effective character letters can bedrock your sentence mitigation plan.

*What Information Should be Included in a
Character Letter for Court Purposes?*

There is no such thing as a “one size fits all” character letter. The best character letters are those that will fit the overall defense strategy you have developed on behalf of your client. They should also support the sentencing memorandum, and therefore, whenever possible, should include the same kinds of information contained in the presentence report prepared by the court’s probation department.¹ Broadly speaking, character letters might begin with a short paragraph or two covering the three following items:²

1. A description of the person’s prior criminal convictions to the extent known by the author, or simply an acknowledgement that the person has committed the same or similar offense(s) in the past.
2. Again, to the extent known by the author, and relevant to the author’s opinion or your case strategy, a brief description of the person’s education and employment background and the person’s present employment status.
3. The author’s understanding of any related medical, psychological or substance abuse history, and, if indicated, the author’s knowledge of the person’s efforts toward addressing and recovering from these concerns.

In this introductory portion of the character letter the author should indicate who they are, how they know the accused, and how long they've known them. Here is an example of an introduction that captures the first two items above using a fictional person's name Jason Smith: "I am currently employed as a physician's assistant and have known Mr. Smith (or Jason) for 7 years. We met when we were both undergraduate students at Michigan State University when Jason was studying engineering. We both had calculus together. Jason did an internship with Ford Motor Co., and later started working for his current employer, Visteon Corporation. Jason recently told me that he is facing a child endangerment drunk driving charge. He has also confided in me that he has a prior arrest for MIP from 2001 when he was living in the dorms at MSU."

The remaining paragraphs will address and set forth the author's opinion of the person. In this regard, more details are better, especially when the details and the opinion they support specifically relate to the pending charges. The author's opinion should also not be out of step with what is otherwise known or can be assumed about the person. For example, if there are prior convictions, then it would not make logical sense for the author to suggest that Jason's new offense is out of character. It is also unhelpful for the author to state an opinion contrary to the tacit implications of the underlying offense, as might occur in the fictitious child endangerment case where an author indicates that "Jason is an excellent father who would never do anything to put his children in danger." Instead, the author might squarely address how putting his children in danger is contrary to other positive paternal behaviors the author has witnessed, and therefore indicative of how Jason's drinking had caused this and other aspects of his life to become unmanageable.³

At its core, our criminal laws are arguably designed to hold people accountable for aberrant behavior that places themselves or others in danger or that is otherwise violative of our collective social code. In this way, criminal laws are ostensibly related to elements of virtue and morality. Consequently, the character letter is designed to explain how the person's criminal behavior is not reflective of their true nature, which is otherwise demonstrably virtuous. Said a little differently, a character letter should explain why, despite the charges the person is facing, they are nevertheless a good social citizen. Accordingly, the author's character opinion may also include a recitation of the personality attributes the author believes your client

possesses, along with details in support of this opinion. Here the author may reflect on examples of the person's positive personality traits, such as honesty, integrity, selflessness, accountability, self-discipline, and restraint.

An excellent character letter will tell a specific story consistent with the author's opinion. For example, if the author thinks the person is selfless, the author will tell a personal story about a time the person exhibited this behavior. Again, the story, and the virtue espoused within it, should fit into the overall defense approach and be relevant to the crime charged. Thus, if the charge involves drugs or alcohol, the author may relate a story of a time when everyone was drinking heavily but the person exhibited self-discipline and control, having little to drink.

Letter authors might also discuss other positive behaviors of the person. If the author is aware that the person volunteers their time in the soup kitchen every Thanksgiving, visits the elderly, contributes to or works for volunteer or charity groups, or in any other way "gives back" or "pays it forward," this information may be included as well. One proviso, however, is that this information should only be included to the extent previously and personally known to the author.

Perhaps the most important character letter content of all relates to the post-arrest behavior of the person. In the case of the fictitious child endangerment DUI case, what steps has the person taken to explore and address an underlying substance use disorder? Are they attending a 12-step program? If so, can their letter author(s) describe in detail their knowledge of this participation? Here is an example of how this might be done: "Jason has talked to me about how he's working the steps and has confided in me about his struggles with step 3. Jason is a very self-reliant person, and it's hard for him to give up control to his higher power. I can see however how hard he is trying, and as he continues to work the steps, he seems more at peace and less anxious than in the past." Alternatively, "Jason made amends⁴ to me regarding some things he did while we were in college together, so I know he's sincere about his recovery."

How to "Frame" a Character Letter

Thought should be given as to the "frame"⁵ through which you want the prosecutor and judge to "see" your client. While there may be three primary

frames applicable to sentence mitigation,⁶ two of them, revelation, and redemption, will be most applicable to sentencing letters.

Prosecutors and judges can never really know your client until they “stand in his shoes and walk around in them.”⁷ Revelation stories help them do just this. According to Doug Passon, the revelation frame is “designed to ‘flip the script’ and give the judge (or prosecutor) a whole new perspective on the case or client.”⁸ Revelation stories “reveal deeper, often hidden truths of the client’s life story that help decisionmakers better understand and conceptualize the choices that client made.”⁹ These stories are not about making excuses. Instead, revelations stories allow the judge or prosecutor to better visualize and understand the life circumstances that lead to the client’s bad choices.¹⁰

Redemption stories are like revelation stories except that they are focused on revealing the client’s true character and why the person will not make the same choices again.¹¹ Here the author can recount “past redemptive acts that show the client’s core goodness, present efforts to right the wrongs at issue, or a general motivation and plan to making meaningful change in the future.”¹² Where applicable, the redemption story will include the information about the client’s commitment to recovery mentioned above. And the referenced list of good deeds is “often better when presented in tandem with a good redemption story.”¹³

Using the guidelines set forth above, effective character letters can emphasize which of these frames is most relevant in keeping with the author’s knowledge of your client and their case. Character letters are therefore the perfect place for your client to explain, through the words of another person, “why I did what I did (revelation), and why I am not going to do it again (redemption).”

One particularly impactful letter utilized by the authors in the past was written by a father for his son in a child endangerment case. This letter contained both a revelation story and a redemption story. This client was from Michigan but had moved to another state to work for a well-known highly respected university as a research scientist. He was a research scientist, and his wife was completing a medical residency. His mother had recently died of cancer, and he had a newborn child in the car with him. As part of the revelation frame, the father indicated:

Toward the end of her life, I was my wife’s primary caretaker. My children helped wherever they could, taking his mother

Melissa places, bringing her things, and just spending time with her. This was harder for Jason than my other children because his wife Anne accepted a residency at a hospital in Boston which prompted two of them to move hundreds of miles away. From afar, Jason helped with her medical issues by communicating with her many doctors and calling her daily to check in. Jason made so many trips up to spend time with his mom (at great personal expense) and attend her in-person medical appointments, both with and without his wife Anne, when needed. He helped with things around the house we could not do, including transporting her to appointments, taking her places, shopping for groceries, small home repairs, etc. often staying 1-4 weeks at a time. He would focus on us until we went to bed, then stay up until 2 or 3 in the morning to catch up on his work.

This letter also distinguished Jason’s true character as a father with the offense charged and touched on his redemption/rehabilitation, as follows:

Even before Jason became a father, kids were always drawn to him. Our family, and Melissa in particular, always hoped he would be a dad some day and knew he would be a natural. During his visits, I could see that Jason loves being a father. He is calm and caring and always present with his daughter, Sloane. With Anne’s demanding job at the hospital, he is the primary caregiver to an infant, which I am sure is tiring and difficult. I do not know my son like my wife did, but I know that there could be no consequences to his actions that would have a stronger impact on his future actions than his own thoughts and feelings when it was discovered he put his daughter in harm’s way. I know that the loss of his mother played a part in what happened, and while that is not an excuse for making poor choices, I know it contributed to a one-time lapse in judgement for an otherwise exemplary person. To my knowledge he has not drunk at all since that night, and has doubled down on supporting his family, especially Melissa’s 91-year-old parents he remains close with. He has been more willing to talk about his issues and ask for help, which is something none of us do particularly well. I believe that he has and will continue to make changes in his life that will prevent any sort of future occurrence and continue to grow as a father to Sloane.

(continued)

How to Properly Format a Character Letter for Use in Plea Negotiations and Sentence Mitigation

For some, writing properly formatted letters can be challenging. There are many excellent online resources¹⁴ that can be shared with authors who may be otherwise unfamiliar with this form of writing. Authors must also understand that these are character “letters,” not character texts or emails, and they should be admonished to not use a form letter.

Generally, whenever possible, character letters should be written using standard business block format, on the author’s letterhead, and include a date, an inside street address, an email address, and a telephone number. They should also be signed by the author. Digital signatures are acceptable, but “wet” signatures are best. Ideally, the letters should include the judge’s name and a case reference, and be formatted as follows:

August 3, 2025
Stephen Jones
123 Anywhere Street
Someplace, MI 42000

Judge Kimberly Small
c/o 48th Judicial District Court
4280 Telegraph Rd.
Bloomfield Twp., MI 48302

Re: People v. Jason Smith
No. 21-00001-FH

Dear Judge Small,

Jason Smith recently told me about the child endangerment charges currently pending in the 48th District Court and asked me to write this character letter on his behalf. I have known Jason since.....

Other Considerations for a Character Letter

As suggested above, character letters are most efficiently addressed to the judge presiding over the case. This way the same letter can be used for both plea negotiations as well as for sentence mitigation. Nevertheless, two letters are better, one addressed to and written for the judge, the other addressed to and written for the prosecutor. However, most authors have a difficult enough time writing one letter, let alone two. Because requesting two letters may overburden authors, it’s best to leave this decision to your client. Either way, be sure to review the letters carefully, and don’t hesitate to have your client request truthful and accurate changes before using them.

Because of the required level of detail and prior knowledge contained in a character letter, they must be written by people who know your client well. The list might therefore include friends, family, co-workers, support group participants, therapists, clergy, fellow congregants, coaches, teachers, and spouses. While this is something of a double-edged sword because the people closest to your client are the same people who have the most incentive to exaggerate or prevaricate, provided their letters are honest and supported with accurate details, such letters should nevertheless be highly effective.

The dual principals of honesty and accuracy can’t be emphasized enough. Apocryphal character letters are sure to do more harm than good because the letters will be subject to verification by the recipients. Anyone familiar with “everybody lies”¹⁵ as the frequent refrain of Dr. Gregory House has an idea of what a judge or prosecutor might be thinking when reviewing a character letter. As a learned skill, experienced judges and prosecutors become very adept at “judging” when the author of a character letter is exaggerating or in some cases outright lying. Consequently, as much as your authors may want to help, anything less than complete honesty is very likely to backfire. Accordingly, be sure to tell your client that all authors must be scrupulously honest relative to everything written about them and caution your client to ask their authors to only relate what is 100% verifiably true.

While it likely goes without saying, character letters should never be sent directly to the judge or prosecutor. Also, be sure to give your client plenty of time to request and obtain their character letters. Explain your timetable to your client and provide them with a “due date.” Be sure your client understands that it is their responsibility to assure that their authors comply with this timetable.

And finally, while there is no set rule as to a minimum number of character letters, obtaining at least three is a good starting point. Since you are likely to use no more than six letters on behalf of your client, if they collect more than six, simply select the most persuasive from among them.

Assuring that letter authors follow the steps and suggestions outlined in this article will inevitably lead to your obtaining more effective character letters which in turn will help you win more cases more often.

***by Patrick T. Barone and
Madeline E. Barone***



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Endnotes

1. See, MCR 6.425
2. *Id.*
3. Step one, the Twelve Steps of Alcoholics Anonymous, <https://www.hazeldenbettyford.org/articles/twelve-steps-of-alcoholics-anonymous> (last checked August 10, 2021).
4. *Id.*, steps eight and nine.
5. Based on the theories of Scott Plous in his 1993 book *the psychology of judgment and decision making*. *McGraw-Hill*. ISBN 978-0-07-050477-6.
6. Passon, Doug, The Three Rs of Sentencing Storytelling, The National Association of Criminal Defense Lawyers Champion, Vol. XLV, No. 3, April 2021.
7. Lee, Harper, *To Kill a Mockingbird*, 1960
8. *Id.* At 16.
9. *Id.*
10. *Id.*
11. *Id.* at 20, and *People v Daniel*, 462 Mich 1, 7, n 8 (2000).
12. *Id.*
13. *Id.*
14. See, e.g., https://owl.purdue.edu/owl/subject_specific_writing/professional_technical_writing/basic_business_letters/index.html (last checked August 10, 2021).
15. Pilot episode, House MD, <https://www.imdb.com/title/tt0606035/> (last checked August 10, 2021).

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